

Tenth and Final Account and Report of Conservator; Petition for Allowance of Compensation to Conservator and Her Attorney; and Distribution

DOD: 9/19/15	PUBLIC GUARDIAN , Conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Petition proposes to distribute the remaining property on hand to the decedent's brothers, pursuant to intestate succession. Need Affidavits re: Probate Code §13100 from Jere Gauss and Norman Gauss.
	Account period: 3/1/14 – 9/19/15	
Cont. from	Accounting - \$216,452.09	
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH - \$142,942.25	
<input checked="" type="checkbox"/> Verified	Ending POH - \$139,285.05	
Inventory	Subsequent Account: 9/20/15 – 12/31/15	
PTC	Accounting - \$145,141.81	
Not.Cred.	Beginning POH - \$139,285.05	
<input checked="" type="checkbox"/> Notice of Hrg	Ending POH - \$141,744.63	
<input checked="" type="checkbox"/> Aff.Mail W/	Conservator - \$1,700.76 (7.29 Deputy hours @ \$96/hr and 13.17 Staff hours @ \$76/hr)	
Aff.Pub.	Attorney - \$1,250.00 (less than allowed per Local Rule)	
Sp.Ntc.	Bond fee - \$649.66 (o.k.)	
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp	Petitioner prays for an Order:	
Objections	1. Approving, allowing and settling the tenth and final account;	
Video Receipt	2. Authorizing the conservator and attorney fees and commissions;	
CI Report	3. Payment of the bond fee;	
9202	4. Distribution of remaining property on hand to deceased conserve's brothers, Jere Gauss and Norman Gauss in equal shares.	
<input checked="" type="checkbox"/> Order		
Aff. Posting		Reviewed by: KT
Status Rpt		Reviewed on: 6/6/16
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 1- Gauss

Status Hearing re: Filing of the Fifth Account

			<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR.</u> Fifth Account approved on 9/15/15.</p>
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 6/3/16
			Updates:
			Recommendation:
			File 2- Collins

Probate Status Hearing re: Failure to File Annual or Biennial Account

Age: 86 years	RONALD WEBB and SYLVIA LUTTRELL , son and daughter, were appointed co-conservators of the person and estate with bond of \$150,785.00, on 4/24/2013.	NEEDS/PROBLEMS/COMMENTS:
		1. Need first account or current written status report pursuant to Local Rule 7.5, which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
Cont. from	Letters issued 4/24/2013.	
Aff.Sub.Wit.		
Verified	I&A filed 8/13/13 - \$0.00 (<i>all assets in trust</i>)	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Notice of Status Hearing filed 4/13/2016 set this status hearing for filing of the annual or biennial account.	
Aff.Mail	Declaration by Attorney LeVan filed 6/7/2016 requests a 30-60 day continuance to allow time for the preparation of a petition to terminate the conservatorship of the estate due to lack of assets.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: SEF
Status Rpt		Reviewed on: 6/2/2013
UCCJEA		Updates: 6/7/2016
Citation		Recommendation:
FTB Notice		File 3- Webb

Petition for Approval of Third and Final Account and Report of Temporary Conservator of the Estate; Request for Approval of Payment of Temporary Conservator's Fees; Request for Approval of Payment of Conservator's Attorney's Fees; and Discharge of Temporary Conservator of the Estate

		TEMP EXPIRES 6/8/16		NEEDS/PROBLEMS/COMMENTS: Minute Order 4/28/16: Parties are working to resolve an issue re social security payee. The matter is continued to the date of the Petition to Confirm Contractual Arbitration Award and the 5/3/16 status hearing is vacated. Temp conservatorship extended to 6/8/16.
		BRUCE BICKEL , Temporary Conservator of the Estate, is Petitioner.		
		Account period: 5/1/15 through 1/15/16 Accounting: \$589,077.95 Beginning POH: \$568,498.67 Ending POH: \$0.00		
Cont. from 042816		The assets of the conservatorship estate were transferred to Comerica Bank & Trust, N.A., successor trustee of the Loeffler Family Trust, on 1/6/16 pursuant to Order of 11/13/15.		
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail	W		
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Conservator: \$8,673.00 \$9,235.50 (\$7,443.00 for 61.10+ hours by Temporary Conservator and those under his direct supervision from 6/1/15 through 3/11/16 as set forth in Declaration of Bruce Bickel, plus \$1,230.00 for an additional 8.5 hours as set forth in Supplemental Declaration and Second Supplemental Declaration filed 5/26/16.)		
		Attorney (Dowling Aaron): \$13,530.00 \$14,905.00 (\$6,710.00 for 24.40+ hours of attorney time was expended in advising the Temporary Conservator from 8/30/15 through 3/13/16, plus \$6,820.00 as set forth in Declaration of Summer A. Johnson and Second Supplemental Declaration filed 5/26/16.)		
		Costs (Dowling Aaron): \$1,389.00 (filing, service, court reporter)		
		Attorney (Bagdasarian): \$1,595.00 (The former attorney for Linda Plitt has requested payment for the period of 8/7/15 through 12/1/15 per attached final billing statement.		
		Pursuant to the terms of the settlement agreement, after transition of the assets of the conservatorship estate to the successor trustee Comerica Bank & Trust, N.A., Petitioner is to be discharged as Conservator of the Estates of Fred and Kathleen Loeffler. Petitioner requests that upon approval of this final account and report that conservatorship be terminated and Petitioner be discharged as Conservator of the Estate of Fred O. Loeffler.		
		<u>SEE ADDITIONAL PAGES</u>		
		Reviewed by: skc		
		Reviewed on: 6/6/16		
		Updates:		
		Recommendation:		
		File 4A- Loeffler		

Supplement to Petition filed 4/13/16 states Petitioner is presently the Representative Payee with respect to Dr. Loeffler's monthly Social Security payment, which is sent by check to Petitioner, and Petitioner forwards it to Comerica Bank & Trust, N.A., successor trustee of the Loeffler Family Trust. Pursuant to the settlement agreement, Petitioner shall transfer all assets under his control to Comerica Bank upon approval of the accounts. In an effort to finalize transition of all financial matters to Comerica Bank, Petitioner has spoken with Comerica Bank, who will accept direct deposit of the social security payments to the Loeffler Family Trust accounts; however, they presently cannot accept the direct deposit with a representative payee from Social Security.

Consequently, Petitioner requests an order from the Court removing Petitioner as the Representative Payee on the Conservatee's Social Security payment and directing that the payments be direct deposited into a specified Comerica Bank checking account.

Update: Second Supplement filed 5/24/16 states Comerica Bank advised that they could not act as representative payee for Dr. Loeffler's Social Security payments. However, Sierra View Homes, the residence of Dr. and Mrs. Loeffler, has agreed to act as Representative Payee for their Social Security payments, which will be applied toward their monthly rent. **Petitioner requests an order for the Court removing him as Representative Payee on the Conservatee's Social Security payment and directing that the payments be direct deposited into the respective Sierra View Homes Resident Trust accounts.**

Additionally, arbitration occurred on 3/26/16 concerning implementation of two items from the settlement agreement – execution of advance healthcare directive naming a neutral third party and limited durable power of attorney naming Comerica Bank & Trust, N.A., as the agent for purposes of filing Dr. Loeffler's tax returns and managing his IRA. Dr. Loeffler did not agree to the appointment of a neutral agent and did not execute a limited DPOA. On 3/26/16, Arbitrator Judge Howard R. Broadman (Ret.) ordered that Ms. Johnson prepare and circulate a proposed arbitration award on or before 4/1/16. As relevant herein, Judge Broadman found the following:

- a. Marion Austin would serve as the agent under an Advance Healthcare Directive on behalf of Dr. Loeffler, the terms of which are incorporated into the Arbitration Award;
- b. Comerica Bank & Trust, N.A., would serve as attorney-in-fact or agent under a Limited DPOA on behalf of Dr. Loeffler, the terms of which are incorporated into the Arbitration Award;
- c. Attorney's fees and costs were awarded to prevailing parties.

The proposed Arbitration Award was drafted by Ms. Johnson and served on all parties, counsel and interested persons on 4/1/16 as ordered by Judge Broadman. Objections or revisions were due on or before 4/11/16. Ms. Johnson prepared, filed and served a correction to the proposed award which reflected a reduction in the amount of fees requested to be awarded to prevailing party Diane Huerta as a result of a clarification from Ms. Huerta's counsel re calculation of the attorney fees.

Mick Loeffler, Dr. Loeffler, and Mrs. Loeffler served written objections to the proposed arbitration award and each of Judge Broadman's rulings therein.

A copy of the revised Proposed Arbitration Award is attached as Exhibit A. As relevant to this supplement, Judge Broadman awarded Mr. Bickel and his attorney, Ms. Johnson, their fees and costs incurred in preparing for and attending the arbitration, subject to application to and approval by the Court.

Petitioner has been informed by Ms. Johnson that a Petition to Confirm the Arbitration Award will need to be filed ten (10) days following execution of the Arbitration Award by the Arbitrator.

Petitioner describes the supplemental compensation requested herein (included and described on Page 1).

SEE ADDITIONAL PAGES

Update: Second Supplement filed 5/24/16 states Mr. Bickel and his counsel, Summer A. Johnson, filed a Petition to Confirm the Arbitration Award entered by Judge Howard R. Broadman (Ret.) on 4/12/16 concerning the arbitration held 3/26/16. (See Page B.)

See also Supplemental Declarations of Summer A. Johnson and Bruce D. Bickel in support of additional compensation (see below), served on parties on 5/26/16.

Petitioner requests an order that:

1. The Third and Final Account and Report be settled, allowed, and approved as rendered, and all acts and transactions of Bruce D. Bickel as Temporary Conservator of the Estate set forth in it, or relating to matters set forth in it, be ratified, confirmed and approved;
2. The property on hand at the end of the account period is: \$0;
3. Petitioner be removed as the representative payee with respect to Fred Otto Loeffler's Social Security payment and Fred Otto Loeffler's Social Security payment be direct deposited into the ~~specified Comerica Bank checking account~~ Sierra View Resident Trust account for Dr. Loeffler;
4. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Bruce D. Bickel the amount of ~~\$8,673.00~~ \$9,235.50 for services rendered as Temporary Conservator of the Estate;
5. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Dowling Aaron Incorporated ~~\$13,530.00~~ \$14,905.00 for legal services rendered to the Temporary Conservator of the Estate;
6. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Dowling Aaron Incorporated \$1,389.00 for costs advanced on behalf of the Temporary Conservator of the Estate;
7. Comerica Bank & Trust, N.A., be authorized and directed to pay Gary Bagdasarian reasonable attorney's fees in an amount approved by the Court;
8. The Conservatorship be terminated and upon entry of the order approving the petition, the conservator be discharged and released from all liability to be incurred hereafter;
9. Upon entry of the order approving the petition, Petitioner's surety be released and discharged effective as of 1/6/16, the date upon which Petitioner delivered the Conservatorship Estate to Comerica Bank & Trust, N.A.; and
10. Any and all such other further orders as the Court considers proper.

Page 2 - The attached Arbitration Award provides as follows:**Parties present:**

- Dianne Huerta, represented by Marcella Downing of Howk & Downing
- Bruce Bickel, represented by Summer A. Johnson of Dowling Aaron Incorporated
- Linda Plitt, in pro per
- Mick Loeffler, in pro per
- Marion Austin, in pro per
- Sam Loeffler, telephonically, in pro per

Parties not present:

- Fred Otto Loeffler
- Kathleen D. Loeffler

Issues presented for determination:

- A. Selection of an individual to serve as the agent under Dr. and Mrs. Loeffler's Advance Healthcare Directives and the execution of the Advance Healthcare Directives by Dr. and Mrs. Loeffler pursuant to Section 7 of the Settlement Agreement.
- B. Execution by Dr. and Mrs. Loeffler of Limited Durable Powers of Attorney appointing Comerica Bank as agent pursuant to Section 3 of the Settlement Agreement or entry of an Order appointing Comerica Bank as agent under Limited Durable Powers of Attorney for Dr. and Mrs. Loeffler pursuant to Section 3 of the Settlement Agreement.
- C. The awarding of attorney's fees and costs to the prevailing party pursuant to Section 14.10 of the Settlement Agreement.

Award:**A. As to the issue of selection of an individual to serve as agent under Dr. and Mrs. Loeffler's Advance Healthcare Directives:**

1. Marion Austin of Central Valley Fiduciary Services is appointed to serve as the agent for Fred Otto Loeffler pursuant to an Advance Healthcare Directive, the terms of which are incorporated into the award. See Award for details.
2. Marion Austin of Central Valley Fiduciary Services is appointed to serve as the agent for Kathleen Doris Loeffler pursuant to an Advance Healthcare Directive, the terms of which are incorporated into the award. See Award for details.

B. As to the issue of execution of Limited Durable Powers of Attorney appointing Comerica Bank as agent:

1. Comerica Bank & Trust N.A., is appointed to serve as the true and lawful Attorney in Fact for Fred Otto Loeffler pursuant to a Limited Durable Power of Attorney, the terms of which are incorporated into the award. See Award for details.
2. Comerica Bank & Trust N.A., is appointed to serve as the true and lawful Attorney in Fact for Kathleen Doris Loeffler pursuant to a Limited Durable Power of Attorney, the terms of which are incorporated into the award. See Award for details.

SEE ADDITIONAL PAGES

Page 3 – Award (Cont'd):

C. With respect to the awarding of attorney's fees and costs: The Arbitrator finds that Party Dianne Huerta and Party Bruce D. Bickel are the prevailing parties and awards attorney's fees and costs as set forth below:

1. **Fees payable by Fred Otto Loeffler and Kathleen D. Loeffler from the conservatorship estates and/or Loeffler Family Trust:**

i. **Attorney's Fees and Costs awarded to Temporary Conservator Bruce D. Bickel:** Mr. Bickel's fees for services performed with respect to the Arbitration in this matter and the fees for legal services provided with respect to the Arbitration by his attorneys, Dowling Aaron Incorporated, shall be submitted for Court approval to the Judge of the Superior Court in the respective conservatorship and trust matters.

ii. **Attorney's Fees and Costs awarded to Dianne Huerta:** Ms. Huerta is entitled to reimbursement of payment of her attorney's fees and costs paid to her attorneys in this matter, Howk & Downing, and Lang, Richert & Patch. Said fees and costs incurred include **\$17,155.47** for fees incurred to Howk & Downing and **\$2,555.00** in fees and costs incurred to Lang, Richert & Patch. Said total amount of fees and costs shall be paid to Ms. Huerta from the Loeffler Family Trust.

2. **Arbitrator's Fees, Attorney's Fees, and Costs payable by Mick Loeffler:** The Arbitrator awards the amount of **\$5,300.00** payable by Mick Loeffler to the Trustee of the Loeffler Family Trust. Said amount shall accrue at the legal rate of 10% interest per annum from the date of execution of the Arbitration Award until paid in full by Mick Loeffler. Said amount or partial payments thereof shall be segregated in the trust and will be used for the care and maintenance of Dr. and Mrs. Loeffler only in the event that funds are unavailable from other sources (excluding the residence on Reed Ave.). If not used, said amount shall be distributed in equal shares to Sam Loeffler, Dianne Huerta and Linda Plitt. If not paid in full at the last to die of Dr. and Mrs. Loeffler, amount plus interest shall be deducted from Mick Loeffler's distributive share of the trust estate and paid in equal shares to Sam Loeffler, Dianne Huerta, and Linda Plitt.

Petition for Approval of Third and Final Account and Report of Temporary Conservator of the Estate; Request for Approval of Payment of Temporary Conservator's Fees; Request for Approval of Payment of Conservator's Attorney's Fees; and Discharge of Temporary Conservator of the Estate

TEMP EXPIRES 6/8/16		
BRUCE BICKEL , Temporary Conservator of the Estate, is Petitioner.		
Account period: 5/1/15 through 1/15/16		
Accounting: \$32,059.47		
Beginning POH: \$26,162.75		
Ending POH: \$755.00 (cash)		
With the exception of one account, the assets of the conservatorship estate were transferred to Comerica Bank & Trust, N.A., successor trustee of the Loeffler Family Trust, on 1/6/16 pursuant to Order of 11/13/15.		
Conservator: \$8,950.50 \$9,498.00 (\$7,660.50 for 62.65+ hours by Temporary Conservator and those under his direct supervision from 6/1/15 through 3/11/16 as set forth in Declaration of Bruce Bickel, plus \$1,290.00 for an additional 8.9 hours as set forth in Supplemental Declaration and Second Supplemental Declaration filed 5/26/16.)		
Attorney (Dowling Aaron): \$13,007.00 \$13,970.00 (\$7,067.00 for 25.70+ hours of attorney time was expended in advising the Temporary Conservator from 8/30/15 through 3/13/16, plus \$5,940.00 as set forth in Declaration of Summer A. Johnson and Second Supplemental Declaration filed 5/26/16.)		
Costs (Dowling Aaron): \$1,109.75 (filing, service, court reporter)		
Pursuant to the terms of the settlement agreement, after transition of the assets of the conservatorship estate to the successor trustee Comerica Bank & Trust, N.A., Petitioner is to be discharged as Conservator of the Estates of Fred and Kathleen Loeffler. Petitioner requests that upon approval of this final account and report that conservatorship be terminated and Petitioner be discharged as Conservator of the Estate of Kathleen D. Loeffler.		
<u>SEE ADDITIONAL PAGES</u>		
NEEDS/PROBLEMS/COMMENTS:		
Minute Order 4/28/16: Parties are working to resolve an issue re social security payee. The matter is continued to the date of the Petition to Confirm Contractual Arbitration Award and the 5/3/16 status hearing is vacated. Temp conservatorship extended to 6/8/16.		
Reviewed by: skc		
Reviewed on: 6/6/16		
Updates:		
Recommendation:		
File 5A- Loeffler		

Supplement to Petition filed 4/13/16 states Petitioner is presently the Representative Payee with respect to Mrs. Loeffler's monthly Social Security payment, which is deposited to a Union Bank account and Petitioner then sends a check payment to Comerica Bank & Trust, N.A., successor trustee of the Loeffler Family Trust. Pursuant to the settlement agreement, Petitioner shall transfer all assets under his control to Comerica Bank upon approval of the accounts. In an effort to finalize transition of all financial matters to Comerica Bank, Petitioner has spoken with Comerica Bank, who will accept direct deposit of the social security payments to the Loeffler Family Trust accounts; however, they presently cannot accept the direct deposit with a representative payee from Social Security.

Consequently, Petitioner requests an order from the Court removing Petitioner as the Representative Payee on the Conservatee's Social Security payment and directing that the payments be direct deposited into a specified Comerica Bank checking account.

Update: Second Supplement filed 5/24/16 states Comerica Bank advised that they could not act as representative payee for Dr. Loeffler's Social Security payments. However, Sierra View Homes, the residence of Dr. and Mrs. Loeffler, has agreed to act as Representative Payee for their Social Security payments, which will be applied toward their monthly rent. **Petitioner requests an order for the Court removing him as Representative Payee on the Conservatee's Social Security payment and directing that the payments be direct deposited into the respective Sierra View Homes Resident Trust accounts.**

Additionally, arbitration occurred on 3/26/16 concerning implementation of two items from the settlement agreement – execution of advance healthcare directive naming a neutral third party and limited durable power of attorney naming Comerica Bank & Trust, N.A., as the agent for purposes of filing Mrs. Loeffler's tax returns and managing his IRA. Mrs. Loeffler did not agree to the appointment of a neutral agent and did not execute a limited DPOA. On 3/26/16, Arbitrator Judge Howard R. Broadman (Ret.) ordered that Ms. Johnson prepare and circulate a proposed arbitration award on or before 4/1/16. As relevant herein, Judge Broadman found the following:

- d. Marion Austin would serve as the agent under an Advance Healthcare Directive on behalf of Mrs. Loeffler, the terms of which are incorporated into the Arbitration Award;
- e. Comerica Bank & Trust, N.A., would serve as attorney-in-fact or agent under a Limited DPOA on behalf of Mrs. Loeffler, the terms of which are incorporated into the Arbitration Award;
- f. Attorney's fees and costs were awarded to prevailing parties.

The proposed Arbitration Award was drafted by Ms. Johnson and served on all parties, counsel and interested persons on 4/1/16 as ordered by Judge Broadman. Objections or revisions were due on or before 4/11/16. Ms. Johnson prepared, filed and served a correction to the proposed award which reflected a reduction in the amount of fees requested to be awarded to prevailing party Diane Huerta as a result of a clarification from Ms. Huerta's counsel re calculation of the attorney fees.

Mick Loeffler, Dr. Loeffler, and Mrs. Loeffler served written objections to the proposed arbitration award and each of Judge Broadman's rulings therein.

A copy of the revised Proposed Arbitration Award is attached as Exhibit A. As relevant to this supplement, Judge Broadman awarded Mr. Bickel and his attorney, Ms. Johnson, their fees and costs incurred in preparing for and attending the arbitration, subject to application to and approval by the Court.

Petitioner has been informed by Ms. Johnson that a Petition to Confirm the Arbitration Award will need to be filed ten (10) days following execution of the Arbitration Award by the Arbitrator.

Petitioner describes the supplemental compensation requested herein (included and described on Page 1).

SEE ADDITIONAL PAGES

Update: Second Supplement filed 5/24/16 states Mr. Bickel and his counsel, Summer A. Johnson, filed a Petition to Confirm the Arbitration Award entered by Judge Howard R. Broadman (Ret.) on 4/12/16 concerning the arbitration held 3/26/16. (See Page B.)

See also Supplemental Declarations of Summer A. Johnson and Bruce D. Bickel in support of additional compensation (see below), served on parties on 5/26/16.

Petitioner requests an order that:

11. The Third and Final Account and Report be settled, allowed, and approved as rendered, and all acts and transactions of Bruce D. Bickel as Temporary Conservator of the Estate set forth in it, or relating to matters set forth in it, be ratified, confirmed and approved;
12. The property on hand at the end of the account period is: \$755 (cash);
13. Petitioner be removed as the representative payee with respect to Kathleen Doris Loeffler's Social Security payment and Kathleen Doris Loeffler's Social Security payment be direct deposited into the ~~specified Comerica Bank checking account~~ Sierra View Resident Trust account for Mrs. Loeffler;
14. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Bruce D. Bickel the amount of ~~\$8,950.50~~ \$9,498.00 for services rendered as Temporary Conservator of the Estate;
15. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Dowling Aaron Incorporated ~~\$13,007.00~~ \$13,970.00 for legal services rendered to the Temporary Conservator of the Estate;
16. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Dowling Aaron Incorporated \$1,109.75 for costs advanced on behalf of the Temporary Conservator of the Estate;
17. The Conservatorship be terminated and upon entry of the order approving the petition, the conservator be discharged and released from all liability to be incurred hereafter;
18. Upon entry of the order approving the petition, Petitioner's surety be released and discharged effective as of 1/6/16, the date upon which Petitioner delivered the Conservatorship Estate to Comerica Bank & Trust, N.A.; and
19. Any and all such other further orders as the Court considers proper.

Page 2 - The attached Arbitration Award provides as follows:**Parties present:**

- Dianne Huerta, represented by Marcella Downing of Howk & Downing
- Bruce Bickel, represented by Summer A. Johnson of Dowling Aaron Incorporated
- Linda Plitt, in pro per
- Mick Loeffler, in pro per
- Marion Austin, in pro per
- Sam Loeffler, telephonically, in pro per

Parties not present:

- Fred Otto Loeffler
- Kathleen D. Loeffler

Issues presented for determination:

- D. Selection of an individual to serve as the agent under Dr. and Mrs. Loeffler's Advance Healthcare Directives and the execution of the Advance Healthcare Directives by Dr. and Mrs. Loeffler pursuant to Section 7 of the Settlement Agreement.
- E. Execution by Dr. and Mrs. Loeffler of Limited Durable Powers of Attorney appointing Comerica Bank as agent pursuant to Section 3 of the Settlement Agreement or entry of an Order appointing Comerica Bank as agent under Limited Durable Powers of Attorney for Dr. and Mrs. Loeffler pursuant to Section 3 of the Settlement Agreement.
- F. The awarding of attorney's fees and costs to the prevailing party pursuant to Section 14.10 of the Settlement Agreement.

Award:**D. As to the issue of selection of an individual to serve as agent under Dr. and Mrs. Loeffler's Advance Healthcare Directives:**

1. Marion Austin of Central Valley Fiduciary Services is appointed to serve as the agent for Fred Otto Loeffler pursuant to an Advance Healthcare Directive, the terms of which are incorporated into the award. See Award for details.

2. Marion Austin of Central Valley Fiduciary Services is appointed to serve as the agent for Kathleen Doris Loeffler pursuant to an Advance Healthcare Directive, the terms of which are incorporated into the award. See Award for details.

E. As to the issue of execution of Limited Durable Powers of Attorney appointing Comerica Bank as agent:

1. Comerica Bank & Trust N.A., is appointed to serve as the true and lawful Attorney in Fact for Fred Otto Loeffler pursuant to a Limited Durable Power of Attorney, the terms of which are incorporated into the award. See Award for details.

2. Comerica Bank & Trust N.A., is appointed to serve as the true and lawful Attorney in Fact for Kathleen Doris Loeffler pursuant to a Limited Durable Power of Attorney, the terms of which are incorporated into the award. See Award for details.

SEE ADDITIONAL PAGES

Page 3 – Award (Cont'd):

F. **With respect to the awarding of attorney's fees and costs: The Arbitrator finds that Party Dianne Huerta and Party Bruce D. Bickel are the prevailing parties and awards attorney's fees and costs as set forth below:**

3. **Fees payable by Fred Otto Loeffler and Kathleen D. Loeffler from the conservatorship estates and/or Loeffler Family Trust:**

i. **Attorney's Fees and Costs awarded to Temporary Conservator Bruce D. Bickel:** Mr. Bickel's fees for services performed with respect to the Arbitration in this matter and the fees for legal services provided with respect to the Arbitration by his attorneys, Dowling Aaron Incorporated, shall be submitted for Court approval to the Judge of the Superior Court in the respective conservatorship and trust matters.

ii. **Attorney's Fees and Costs awarded to Dianne Huerta:** Ms. Huerta is entitled to reimbursement of payment of her attorney's fees and costs paid to her attorneys in this matter, Howk & Downing, and Lang, Richert & Patch. Said fees and costs incurred include **\$17,155.47** for fees incurred to Howk & Downing and **\$2,555.00** in fees and costs incurred to Lang, Richert & Patch. Said total amount of fees and costs shall be paid to Ms. Huerta from the Loeffler Family Trust.

4. **Arbitrator's Fees, Attorney's Fees, and Costs payable by Mick Loeffler:** The Arbitrator awards the amount of **\$5,300.00** payable by Mick Loeffler to the Trustee of the Loeffler Family Trust. Said amount shall accrue at the legal rate of 10% interest per annum from the date of execution of the Arbitration Award until paid in full by Mick Loeffler. Said amount or partial payments thereof shall be segregated in the trust and will be used for the care and maintenance of Dr. and Mrs. Loeffler only in the event that funds are unavailable from other sources (excluding the residence on Reed Ave.). If not used, said amount shall be distributed in equal shares to Sam Loeffler, Dianne Huerta and Linda Plitt. If not paid in full at the last to die of Dr. and Mrs. Loeffler, amount plus interest shall be deducted from Mick Loeffler's distributive share of the trust estate and paid in equal shares to Sam Loeffler, Dianne Huerta, and Linda Plitt.

Petition for Approval of Third and Final Account and Report of Temporary Trustee; Request for Approval of Payment of Trustee's Attorney's Fees; and Discharge of Temporary Trustee

		BRUCE BICKEL , Temporary Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 4/28/16: Matter continued to the date of the Petition to Confirm Contractual Arbitration Award.</u>
		Account period: 5/1/15 through 1/15/16	
		Accounting: \$961,003.42	
		Beginning POH: \$855,691.54	
		Ending POH: \$19.29 (cash)	
Cont. from 042816		Petitioner as temporary trustee has charged all of his time between the two pending conservatorship matters and requests no fee for his services as temporary trustee of the Loeffler Family Trust.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney: \$7,019.00 (\$6,390.00 for 23.24+ attorney hours in connection with advising the temporary trustee as set forth in declaration, plus \$629.00 (filing, service))	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen	Petitioner states the Court's order of 11/13/15 authorized him to transfer the assets to the successor trustee, Comerica Bank & Trust, N.A., which transfer was substantially complete on 1/6/16. The final transfer of \$19.29 was transferred to the successor trustee on 2/1/16, which completed the transfer of trust assets to Comerica Bank & Trust, N.A.	
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections	The settlement agreement requires that the parties agree on the appointment of a neutral third party to serve as the agent under an advance healthcare directive as well as execution of a limited durable power of attorney naming Comerica Bank & Trust, N.A., as agent for purposes of filing Dr. and Mrs. Loeffler's tax returns and managing the IRA. Dr. and Mrs. Loeffler have not agreed to the appointment of an agent and have not executed a limited DPOA appointing Comerica Bank & Trust as agent. An arbitration was scheduled for 3/26/16 before Arbitrator Judge Howard R. Broadman (Ret.).	
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice	Petitioner requests an Order that: <ol style="list-style-type: none"> 1. The Third and Final Account and Report be settled, allowed, and approved as rendered, and all acts and transactions of Bruce D. Bickel as Temporary Trustee off the Loeffler Family Trust set forth in it, or relating to matters set for in it, be ratified, confirmed and approved; 2. Comerica Bank & Trust, N.A., be authorized and directed to pay directly to Dowling Aaron Incorporated \$7,019.00 for legal services and costs rendered to the Temporary Trustee; 3. Upon entry of the Order approving the petition, Petitioner be discharged as Temporary Trustee and released from all liability to be incurred hereafter; and 4. Any and all such other further orders as the Court considers proper. 	

Reviewed by: skc

Reviewed on:
6/7/16

Updates:

Recommendation:

File 6- Loeffler

7A Alan Boyajian Living Trust of 2000**Case No. 14CEPR01058**

Attorney Marcus Magness; Ryan Janisse (for Petitioners Tim Quirk and Laurel Scholar, Successor Co-Trustees)

Attorney Susan L. Pascuzzi (formerly Susan Moore, for Respondent Lee Kleim)

Attorney Roger S. Bonakdar (for Respondent La Jolla Group II Management, Inc.)

**Second Amended Petition for Order: Determining Interest in Trust Property;
Compelling Former Trustee to Deliver Property to Trustees; Requiring Former
Trustee to Account; Compelling Redress for Breach of Book Account; Compelling
Redress for Breach of Certain Written Agreements**

DOD: 6/16/2010	TIM QUIRK and LAUREL SCHOLAR , accountants of the Decedent and Successor Co-Trustees, are Petitioners.	NEEDS/PROBLEMS/COMMENTS: Page 7B is the <i>Demurrer</i> filed by La Jolla Group. Continued from 4/6/2016. <i>Minute Order</i> states Mr. Bonakdar advises that a demurrer was filed this morning. Mr. Janisse orally motions to strike the demurrer based on a lack of "meet and confer" per the CCP. Mr. Bonakdar does not want to withdraw the demurrer. The Court will determine on 6/8/2016 whether or not to strike the demurrer, or possibly impose sanctions and/or award attorney fees. Note: <i>Stipulation to Deem Response of Lee Kleim to First Amended Petition Stand in Response to Second Amended Petition</i> signed by Attorney Susan Pascuzzi and Attorney Ryan Janisse was filed 3/28/2016.										
Cont. from 082615, 093015, 110915, 040616	Petitioners state: <ul style="list-style-type: none"> On 7/13/2000, Alan Boyajian, as Trustor and Trustee, created the ALAN BOYAJIAN LIVING TRUST OF 2000 (copy attached as Exhibit 1); Alan Boyajian amended the Trust as follows: First Amendment on 7/1/2008 (copy attached as Exhibit 2); Second Amendment on 5/4/2010 (copy attached as Exhibit 3; and Third Amendment on 5/11/2010 (copy attached as Exhibit 4); The Trust terms provide that LEE KLEIM, Decedent's business partner, shall serve as the sole Successor Trustee, and in the event he is unable or unwilling to serve, then SUSAN L. MOORE [now PASCUZZI] and LAUREL SCHOLAR shall serve as successor co-trustees; in the event either of them is unable or unwilling to serve, then TIM QUIRK shall serve with the remaining individual; LEE KLEIM accepted the office of Trustee and served in such capacity from date of Decedent's death until his resignation on 2/13/2013 (copy of resignation attached as Exhibit 5); Subsequently, LEE KLEIM denied signing the resignation; LEE KLEIM later voluntarily signed a second resignation which was prepared and notarized by SUSAN L. MOORE (copy attached as Exhibit 6); <p align="center">~Please see additional page~</p>											
Aff.Sub.Wit.		<table border="1"> <tr><td>Reviewed by:</td><td>LEG</td></tr> <tr><td>Reviewed on:</td><td>6/3/16</td></tr> <tr><td>Updates:</td><td></td></tr> <tr><td>Recommendation:</td><td></td></tr> <tr><td>File</td><td>7A – Boyajian</td></tr> </table>	Reviewed by:	LEG	Reviewed on:	6/3/16	Updates:		Recommendation:		File	7A – Boyajian
Reviewed by:	LEG											
Reviewed on:	6/3/16											
Updates:												
Recommendation:												
File	7A – Boyajian											
✓ Verified												
Inventory												
PTC												
Not.Cred.												
✓ Notice of Hrg												
✓ Aff.Mail	W /											
Aff.Pub.												
Sp.Ntc.												
Pers.Serv.												
Conf. Screen												
Letters												
Duties/Supp												
Objections												
Video Receipt												
CI Report												
9202												
✓ Order												
Aff. Posting												
Status Rpt												
UCCJEA												
Citation												
FTB Notice												

7A

Petitioners state, continued:

- **SUSAN L. MOORE** declined to act as successor co-trustee (*copy attached as Exhibit 7*);
- **TIM QUIRK** and **LAUREL SCHOLAR** ("Co-Trustees") accepted the office of co-trustees on 2/26/2013 and have been acting as Successor Co-Trustees since such time;
- Co-Trustees acted as the accountants for Decedent during his life and for the Trust after his death; the represented Kleim individually and did tax work for Decedent's and Kleim's business ventures; Co-Trustees are aware of and have access to various issues with the Trust administration that would not readily be available without such familiarity;
- Decedent and **LEE KLEIM** were business partners which involved purchasing, selling, leasing and renting real estate in Fresno; to carry out this business they formed a number of entities as follows:
 - **LA JOLLA GROUP II GENERAL PARTNERSHIP** – Decedent and Kleim were general partners (the General Partnership);
 - **LA JOLLA GROUP II MANAGEMENT, INC.** – Decedent and Kleim formed this corporation (the Corporation);
 - **LA JOLLA GROUP II LIMITED PARTNERSHIP** – Decedent and Kleim formed this partnership with the La Jolla Group II Management Corporation as the general partner, and Decedent and Kleim as Limited Partners (the Limited Partnership); the Limited Partnership was never capitalized and the initial and final tax return showing zero activity was filed in 2010; the Limited Partnership was then dissolved and the assets of the General Partnership were transferred to the Corporation of which Decedent and Kleim held equal shares;
 - **ASSIGNMENT OF BUSINESS INTERESTS TO TRUST** – Decedent assigned all of the above business interests to the Trust (*copy of assignment attached as Exhibit 8*).
- **Dual Role as Trustee and Corporate Owner:** Upon Decedent's death, **LEE KLEIM** became the sole officer/director of the Corporation; he also became the sole Trustee of the Trust; this arrangement created numerous conflicts of interest; Kleim was removed from involvement in the Corporation due to mental health issues and his family is now operating it on his behalf;
- **Purchase of Corporation and Limited Partnership:** Buy Sell Agreements for the Limited Partnership (*copy attached as Exhibit 9*) and the Corporation (*copy attached as Exhibit 10*) were executed by Kleim and Decedent before Decedent's death; on 4/30/2010, Decedent and Kleim entered into Bill of Sale and agreement whereby the value of the businesses were set by agreement between the parties (*copy of Bill of Sale and Agreement attached as Exhibit 11*);
- At the time the Buy Sell Agreements were executed, the parties intended to fully capitalize the Partnership; however, the parties subsequently elected to move substantially all of the business assets into the Corporation, rendering a material change to circumstances under which Buy Sell Agreements were executed;
- Kleim in his individual capacity, as Trustee of the Trust, as President and Secretary of the Corporation and the Limited Partnership, entered into an agreement memorializing the fact that the Limited Partnership was never capitalized and setting forth how the parties would deal with the buy-sell agreements; Petitioners believe Kleim and/or the Corporation is/are in possession of said agreement (*copy of unsigned agreement attached as Exhibit 12*);
- In accordance with the agreements, the Trust's interest in the Corporation was purchased outright for **\$12,500.00** and the Trust's interest in the Limited Partnership (which had been transferred to the Corporation) was purchased by Kleim for **\$375,000.00** from the Trust (*copy of the Promissory Note evidencing the sale of the Limited Partnership attached as Exhibit 13*);

~Please see additional page~

Petitioners state, continued:

Purchase of Corporation and Limited Partnership, continued:

- While the Trust's interest in the Corporation was purchased outright for **\$12,500.00**, Kleim has been making interest-only payments at **4.5%** on the purchase of the Trust's interest in the Limited Partnership (which had been assigned to the Corporation);
- The principal balance of **\$375,000.00** remains a personal obligation Kleim owes the Trust;
- While Decedent and Kleim were alive, they each took a monthly salary of **\$5,000.00** each;
- Based on this, the former attorney for the Trust, **SUSAN MOORE PASCUZZI**, interpreted the buy sell agreement to require that any distribution or payment to Kleim or his family in excess of **\$5,000.00** required a corresponding payment from Kleim personally against the principal amount owed on the note to the Trust;
- Petitioners allege Kleim, individually and in his capacity as officer and director of the Corporation, was aware of and agreed with this interpretation;
- However, Kleim and the Corporation have refused to provide any information to substantiate the compensation paid to Kleim and his family.
- **Debts Owed by Corporation to Trust:** The Co-Trustees are aware of at least four (4) transactions under which the Trust lent its assets to the Corporation:
 - **Loan of \$263,388.39 in connection with real property on 1521 E. Fedora, Fresno** (*copy of unsigned promissory note attached as Exhibit 14*); the Fedora loan is due 7/1/2015; interest payments were made on the Fedora loan from 8/1/2008 through 5/3/2010, but ceased at Decedent's death with no explanation provided; interest and principal have not been paid despite demand and the Corporation is now in default;
 - **Loan of \$100,000.00 in connection with real property on 3767 E. Huntington, Fresno** (*copy of unsigned promissory note attached as Exhibit 15*); the Huntington loan was due 3/2/2010; no payments were ever made on the Huntington loan and the property was sold in May 2009; this debt was entered in Corporation books as book account and was maintained in normal course of business; payment has not been made despite demand and the Corporation is now in default;
 - **Loan of \$50,000.00 in connection with real property on 437 Keats, Clovis**; the Corporation's employees indicate there was no written note for this transaction but it was carried on Corporation's books as a book account; no payments were ever made on the Keats loan; payment has not been made despite demand and the Corporation is now in default;
 - **Unsecured Loan of \$100,000.00 to Corporation** from Trust to Corporation in 2008, per decedent telling accountants (Co-Trustees) that he and Kleim each loaned **\$100,000.00** to the General Partnership; at the time of this explanation by Decedent, Kleim knew of and did not dispute the representation; Kleim has not provided anything in connection with this loan despite requests and now even disputes the loan ever existed;
- **Verification of debts:** Kleim asked Co-Trustees for information regarding money owed to Trust while he acted as Trustee, which was provided by Co-Trustees to Kleim; Co-Trustees were aware that the Corporation's books matched the Decedent's and Kleim's books; Kleim executed a verified under penalty of perjury IRS form 8939 verifying the existence of the above debts (*copy attached as Exhibit 16*);

~Please see additional page~

Petitioners state, continued:Verification of debts, continued:

- Kleim now disavows the validity of these debts; the Decedent and Kleim never disavowed any book account debt or promissory note during Decedent's life; Kleim never disavowed any book account debt or promissory note after Decedent's death while Kleim was acting as Trustee of the Trust; all debts on the books of the business were always paid to Kleim and Decedent; however, now that Kleim is no longer Trustee, he now questions the debts even though he has access to all Corporations books and cannot point to any evidence suggesting the debts were not valid; Kleim and Corporation are essentially saying they aren't paying these debts because Decedent is no longer here to prove they are valid; this position is in bad faith and in violation of Kleim's fiduciary duties.
- **Violation of Buy-Sell Agreement:** Co-Trustees requested an accounting of all distributions and compensation to Kleim and his family members from the Corporation; Kleim and the Corporation refuse to provide any information regarding payments to Kleim's family; Co-Trustees allege that significant distributions in excess of **\$5,000.00** per month have been made to Kleim's son and wife and other family members; refusing to make corresponding payment on the note and to provide information is a breach of the Corporation's corporate officer's fiduciary duties and of Kleim's duty to pay principal distributions under the note.
- **Request for Information by Co-Trustees:** Through their attorney, Co-Trustees sent Kleim and the Corporation a formal request to provide information regarding the foregoing issues; the request was prompted by several holes in the information and documentation turned over to the Co-Trustees by Kleim, which has rendered it impossible to prepare a fiduciary accounting, as Co-Trustees do not know what assets were on hand when they accepted the office of Trustee; Co-Trustees assert there are valuable Trust assets which have not been delivered to them and suspect Kleim committed multiple breaches of trust; to date, Kleim has not turned over the requested information; Co-Trustees believe Kleim breached his fiduciary duties as Trustee and now intends to obfuscate these breaches by refusing to account and deliver the requisite documentation.
- **Trust Assets:** The Trust is owed significant sums of money by Kleim and the Corporation; despite Kleim acknowledging the debts and failing to pay them while he was Trustee, he now questions whether they are even valid; neither he nor the Corporation are willing to pay; the Corporation is in breach of several agreements; Kleim has never accounted; the Co-Trustees seek relief from this Court.
- **Request for Relief** *[Citations to Probate Code and case authority omitted]*:
Co-Trustees' have Duty to Pursue Claims against third parties to protect and enhance the Trust; Co-Trustees unable to perform this obligation because Kleim has refused to provide the information and documentation necessary to do so;
Kleim is Required to Account upon his resignation, but such an accounting was never prepared or provided; Kleim should be compelled to account for his actions as trustee, which is necessary to provide the starting point from which Co-Trustees can prepare the fiduciary accounting they are required to prepare by law;

~Please see additional page~

[The following Causes of Action, as numbered in Petition, are asserted:]

1. Kleim has a duty to provide and Accounting upon his resignation;
2. Liability for Fedora Loan – Open Book Account;
3. Liability for Huntington Loan – Open Book Account;
4. Liability for Keats Loan – Open Book Account;
5. Liability for **\$100,000.00** Loan – Open Book Account;
6. Breach of Fiduciary Duty;
7. Breach of Contract –Buy Sell Agreement.

Petitioners pray for an Order that:

1. **LEE KLEIM** be ordered to file an accounting with the Court within **60 days** of hearing on this *Petition*;
2. **The Corporation** is liable for the payment of the principal and interest of the Fedora Loan, the Huntington Loan, the Keats Loan, in amounts to be proven and trial, and the **\$100,000.00** book account loan;
3. **LEE KLEIM** be held liable for his breaches of fiduciary duty while acting as trustee and a judgment be entered for all of the damages according to proof;
4. **LEE KLEIM** be held liable to double damages;
5. **LEE KLEIM** be held liable for the Trust's costs and expenses, including attorney fees for bringing this action;
6. **The Corporation** be found liable for breaching the Buy-Sell agreement and the Trust awarded damages in the amount to be proven at trial, for failing to make distributions to the Trust;
7. **The Corporation** be required to deliver all information, documentation, and records for the Trust it has in its possession within **15 days** of hearing on this *Petition*; and
8. **LEE KLEIM** be required to pay Petitioners reasonable attorney fees and costs associated with bringing this *Petition*.

Response to First Amended Petition for Order: Determining Interest in Trust Property; Compelling Former Trustee to Deliver Property to Trustees; Requiring Former Trustee to Account filed by **LEE KLEIM** on 9/15/2015 states denials and admissions to specified Paragraphs of the *Petition*. (*Proof of Service* shows Response was served by mail to Petitioners' attorneys on 9/14/2015.)

Kleim's Response includes reply statements, in brief sum, as follows:

- During Respondent's tenure as Successor Trustee, Respondent provided Tim Quirk and Laurel Scholar with all of the financial information available to him pertaining to the Trust and to the various Notes between La Jolla and the Trust; Successor Trustees have all of the books and records pertaining to the Trust through the date of Respondent Lee Kleim's resignation as Successor Trustee;
- Upon the death of Alan Boyajian, Respondent became the sole shareholder of La Jolla by reason of a Buy-Sell agreement between the partners; by reason of potential conflict of interest in acting as Successor Trustee and the sole shareholder of La Jolla, Respondent had numerous conversations with **CATHY SCHWABENLAND** and **CINDY BULLARD, CPA**, on behalf of **SCOTT BOYAJIAN**, the beneficiaries of the Trust regarding decisions related to trust activity and to obtain their consent regarding actions taken by Lee Kleim as Successor Trustee; numerous conferences were held to include Tim Quirk, the accountant for the Trust and legal counsel to ensure the issues and actions involved the Trust and La Jolla were fully disclosed and agreed upon;

~Please see additional page~

Kleim's Response filed 9/15/2015, continued:

- Respondent admits principal payments are due pursuant to terms of the Buy-Sell agreement and that during his tenure as Successor Trustee, there were no principal payments due and owing on the Note; Tim Quirk was provided a copy of the Buy-Sell agreement either at the time of execution or shortly after Alan Boyajian's death;
- Respondent has never refused to provide a copy of the Buy-Sell agreement to the current Co-Trustees, who were provided with all documentation regarding the interest-only payments on the Note and were in possession of the books and records of La Jolla during Respondent's tenure as Successor Trustee;
- *[Refer to Paragraph 13, pages 3 to 5 for responses related to the debts alleged in the Petition];*
- Respondent denies that he disavows the validity of all debts referenced herein, only that he does not have sufficient information or belief to confirm amounts remaining to be paid; Respondent denies he has access to the Corporation's books and records, and he does not have sufficient information or belief to admit or deny the Corporation's position on repayment of alleged debts;
- Respondent admits principal payments on the Note in connection with the Buy-Sell agreement are predicated on distributions from La Jolla to Lee Kleim in excess of **\$5,000.00** per month; Respondent denies he has received distributions in excess of **\$5,000.00** per month;
- Respondent alleges that since 2/13/2013, he has not had access to the books and records of La Jolla or the Trust; on 2/26/2013, the Co-Successor Trustees resigned as accountants for La Jolla, but up until that date had been provided with all the general ledgers of the company and the administration of the Trust; Respondent has no Trust assets in his possession and no documents pertaining to the administration of the Trust;
- *[Refer to pages 6 to 7 for further admissions and denials].*

Respondent Lee Kleim requests the Court find *[in brief sum]*: Respondent provided all information within his control to Co-Successor Trustees; he relied on Petitioners as his accountants to prepare all accountings; there are no trust assets in possession of Respondent to be turned over to Co-Successor Trustees; all alleged obligations which may be Trust assets are alleged claims for breach of contract against La Jolla; Respondent acted in good faith and is not liable for any damages; and Respondent be dismissed from this action.

Attorney Marcus Magness; Ryan Janisse (for Petitioners Tim Quirk and Laurel Scholar, Successor Co-Trustees)

Attorney Susan L. Pascuzzi (formerly Susan Moore, for Respondent Lee Kleim)

Attorney Roger S. Bonakdar (for Respondent La Jolla Group II Management, Inc.)

Defendant's Notice of Demurrer and Demurrer to Second Amended Petition For Order:

Determining Interest in Trust Property; Compelling Former Trustee to Deliver Property to Trustee;

Requiring Former Trustee To Account; Compelling Redress for Breach of Book Account;

Compelling Redress for Breach Certain Written Agreements; Memorandum of Points and Authorities in Support of Demurrer

DOD: 6/16/2010		<p>TIM QUIRK and LAUREL SCHOLAR, accountants of the Decedent and Successor Co-Trustees, filed a <i>Second Amended Petition for Order: Determining Interest in Trust Property; Compelling Former Trustee to Deliver Property to Trustees; Requiring Former Trustee to Account; Compelling Redress for Breach of Book Account; Compelling Redress for Breach of Certain Written Agreements</i> on 2/24/2016.</p> <p>LA JOLLA GROUP II MANAGEMENT, INC. (LJG) demurs generally to the entirety of the petition on grounds set forth in the <i>Demurrer</i> and the <i>Memorandum of Points and Authorities</i>. Concurrently with the demurrer, as an alternative to sustaining the demurrer without leave to amend, LJG seeks a motion to sever the claims against LJG and to have them transferred to the Civil Unlimited division, as Petitioner's claims against LJG appear to be styled as breach of contract claims; adjudication in this forum is inappropriate, and the matter should be referred to the Civil Unlimited division.</p> <p>Opposition to Defendant La Jolla Group's Demurrer to Second Amended Petition for Order Determining Interest in Trust Property, etc. was filed by TIM QUIRK and LAUREL SCHOLAR, Co-Trustees, on 5/24/2016. Proof of Service shows copies of <i>Opposition to Demurrer to Second Amended Petition</i> was served to all parties on 5/23/2016.</p> <p>Request for Judicial Notice filed by TIM QUIRK and LAUREL SCHOLAR, Co-Trustees, on 5/24/2016 requests the Court take judicial notice of the <i>Order on Demurrer and on Motion to Sever and Transfer</i> filed 2/4/2016, which overrules the general demurrer to the entire complaint, and sustains the special demurrer to the entire complaint for uncertainty as it pertains to the alter ego contention, with leave to amend; overrules general and special demurrers to Second, Third, Fourth, and Fifth causes of action; sustains the general and special demurrers to the Seventh cause of action, with leave to amend; and denies the motion to sever claim and transfer to civil unlimited.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Court records do not show any proof of service of notice of the Demurrer to the Petitioners, their counsel, nor to all interested parties.</p>
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: LEG</p> <p>Reviewed on: 6/3/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7B- Boyajian</p>	

Attorney Heather H. Kruthers (for Public Administrator)

Probate Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 10/9/2014	PUBLIC ADMINISTRATOR was appointed as Administrator with full IAEA authority without bond on 5/28/2015.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 102915, 120915	Letters of Administration issued 6/11/2015.	OFF CALENDAR
	Pursuant to Probate Code § 8800(b), Partial #1 Inventory and Appraisal was filed 5/13/2015 estate property valued at \$385,000.00 .	Final Inventory and Appraisal filed 6/6/2016.
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Final Inventory	Minute Order dated 5/28/2015 from the hearing on the petition for letters of administration set the matter for a Status Hearing on 10/29/2015 for filing of the final inventory and appraisal.	Continued from 12/9/2015. Minute Order states counsel requests 120 days.
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		Note: Confirmation of Attorneys' Lien and Assignment of Beneficial Interest filed 1/13/2016 by Attorney Mark E. Chielpegian indicates ELVA VAN BUSKIRK and GAY MITCHELL assigned the CHIELPEGIAN LAW OFFICES an amount equal to 20% of the net distributable estate that is due to them.
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		Reviewed by: LEG
<input type="checkbox"/> Status Rpt		Reviewed on: 6/3/16
<input type="checkbox"/> UCCJEA		Updates: 6/7/16
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 8 – McCoon

NEEDS/PROBLEMS/COMMENTS, *continued*:

Alvin's father takes very good care of him and that he is a very happy and well-behaved child. Alvin was able to tell the investigator his father's phone number, but did not know his address. Minor appeared to have very little memory of living with his guardian. He vaguely remembered living with someone else when he was young, but he didn't remember her name. Minor indicated he feels safe and is very happy to be living with his dad.

CI Morris contacted Douglas Harper (father) on 5/31/2016 at the phone number that Alvin had given her. After explaining she was calling from the court regarding a petition for guardianship that was on for hearing on 6/8/2016, he acted as if he couldn't hear her and hung up. CI Morris called the number back and left a message, but he did not call her back.

Minor has resided with his father for the past two years and he appears to be very happy and bonded with his father. There is no evidence of abuse or neglect. **Therefore, it does not appear that a guardianship is necessary at this time. It is recommended that the petition be DENIED.**

Attorney Jaech, Jeffrey A. (for Christina Fishinghawk)
 Attorney Burnside, Leigh W. (for DeeAnn Doyle Summers and John Doyle – Objectors)
 Attorney Boyett, Deborah K. (for Marion Austin – Successor Trustee of Trust – Objector)

Account and Report of Attorney-in-Fact and Petition for Approval of Attorney-in-Fact's Acts, and for Attorneys' Fees of Attorney-in-Fact

		CHRISTINA FISHINGHAWK , Respondent, filed this accounting in response to a petition by DEEANN DOYLE SUMMERS and JOHN DOYLE . (See Minute Order 12/10/15.)	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 5/5/16:</u> Continued to meet up with hearing on the account of Thomas Borchardt and Richard Doyle; Counsel will report as to mediation dates or how parties wish to proceed at that time. <u>Note:</u> Status Declaration of Leigh W. Burnside filed 6/3/16 states the parties met on 5/31/16 in an all-day mediation with the Honorable Patrick J. O'Hara (Ret.). Although they continued negotiating into the evening, they were unable to resolve the dispute over Ms. Fishinghawk's accounting and Ms. Burnside's clients' objections thereto. <u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16. <u>Note re related matters:</u> 15CEPR01070 (Conservatorship) 15CEPR01071 (DPOA) 15CEPR01158 (Trust)
Cont'd from 032416, 050516			
	Aff.Sub.Wit.	Account period: 7/17/13 – 12/10/15 Accounting: \$716,741.76 Beginning POH: \$186,562.35 Ending POH: \$ 507.14	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
✓	Verified		
	Inventory	Respondent states she was appointed as attorney in fact under the General Statutory Durable Power of Attorney executed by A. James Doyle, Jr., (the Principal) on 11/29/12. See Exhibit A.	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	PTC		
	Not.Cred.	About 5/14/14, A. James Doyle, Jr., executed a new General Durable Power of Attorney appointing Respondent RICHARD DOYLE and THOMAS BORCHARDT as co-attorneys-in-fact. See Exhibit B.	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
✓	Notice of Hrg		
✓	Aff.Mail	In 2004, the Principal had executed a Durable Power of Attorney naming Petitioner DEEANN DOYLE SUMMERS as his agent, and this power of attorney was presumable in effect until the Principal appointed Respondent in 2012.	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	Aff.Pub.		
	Sp.Ntc.	DEEANN DOYLE SUMMERS and JOHN ("JACK") DOYLE , Respondent's siblings, filed a Petition to Compel Attorney-in-Fact to Account and Report; for Immediate Suspension of Authority to Act; for Revocation of Power of Attorney; and for Surcharge on or about 10/27/15. Under this Court's order of 12/16/15, Respondent's authority under the powers of attorney was suspended and Respondent was ordered to file this account.	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	Pers.Serv.		
	Conf. Screen	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	Letters		
	Duties/Supp	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
✓	Objections		
	Video Receipt	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	CI Report		
	9202	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
✓	Order		
	Aff. Posting	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	Status Rpt		
	UCCJEA	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.
	Citation		
	FTB Notice	SEE ADDITIONAL PAGES	<u>Note:</u> See page B re Petition to Approve First and Final Account of Thomas Borchardt and Richard Doyle in their capacity as attorney in fact filed 4/27/16.

Respondent states: The Fresno County Public Guardian was appointed as Temporary Conservator of the estate of the Principal on 10/30/15 and as the general conservator of the person and estate of the Principal on 12/16/15.

Respondent was ordered to account and report her activities as agent and co-attorney-in-fact commencing 1/1/09 through 12/16/15, including but not limited to all monies held in various Bank of America accounts:

- a. Checking xx3941
- b. Money Market Savings xx3966
- c. Money Market Savings xx4334
- d. Money Market Savings xx9761
- e. Checking xx5779 (trust account)

However, Respondent was not appointed as the attorney-in-fact until 11/29/12 and did not start acting as attorney in fact until approx. 7/17/13, after the Principal aided by **RICHARD DOYLE** opened the above-referenced accounts. Therefore, this accounting begins on 7/17/13. Note: One of the accounts was a trust account and so is not included in this accounting.

Respondent states she had authority to transact business in the Principal's accounts, but did not have exclusive authority or access. The Principal sometimes made transactions on his own or with assistance from someone else, usually without Respondent's contemporaneous knowledge. For example on 1/8/15, Respondent is informed and believes that **JOHN DOYLE** accompanied the Principal to the bank to effect transfers totaling more than \$332,000 from three accounts to a different account (xx9761) of the Principal.

Although Respondent lacked exclusive authority over and access, she nevertheless in this accounting has accounted for all transactions (regardless of whether she was involved) of the following accounts from 7/17/13 -12/16/15:

- a. Checking xx3941, Money Market Savings xx3966, and Money Market Savings xx4334 titled in the names of the Principal and the Respondent, and opened 7/17/13 by the Principal assisted by his brother **RICHARD DOYLE**
- b. Savings xx9761, titled in the Principal's name, opened 1/8/15 on the initiate of **JOHN DOYLE**. Later, Respondent's name was added as attorney-in-fact.
- c. Checking xx3624, titled in the names of **THOMAS BORCHARDT, CPA**, and Respondent in trust for the Principal, opened on 1/12/15.

All bank statements were regularly given to Petitioner DeeAnn Summers. January 2015 and after were delivered by Respondent to Principal's accountant, **THOMAS BORCHARDT, CPA**, and on information and believe, copies were provided to Ms. Summers.

SEE ADDITIONAL PAGES

Sale of residence: Respondent states about March 2014, the Principal hired real estate agent Alexis Savaros to sell his house on Robinwood Lane in Fresno. Respondent as attorney-in-fact oversaw the sale of the home. Net proceeds of \$120,600.25 were deposited into the trust account xx5779 on 4/18/14.

Compensation and reimbursements paid to Respondent: Respondent kept meticulous records of the services she performed for her father as a caregiver and attorney-in-fact for 2009-2015 including mileage and expenses. See petition for details. On 10/23/13, the Principal and Respondent entered into a "Personal Care Contract" under which Respondent was to receive \$20/hr plus reimbursement for expenses for her services to the Principal. On information and belief, the Principal paid **DEEANN SUMMERS** \$1,460 for the months of May through October 2012 for helping him pay bills. She provided no other caregiving services.

About 5/30/14, the Principal paid Respondent \$26,167 and about 7/28/14, reimbursed Respondent \$10,409 for October 2009 through May 2014.

About 11/17/14, the Principal paid Respondent \$73,895 (recomputed to reverse all commuting mileage and babysitting expenses) for her caregiver services, and on 12/22/14 an additional \$3,207.98.

The gross amount paid to Respondent was \$113,678.98. On information and belief, after Respondent was paid the \$73,895 for her services, TOM BORCHARDT and RICHARD DOYLE paid from the Principal's trust \$61,924 each to Petitioners DEEANN SUMMERS and JOHN DOYLE, even though they had provided no services to the Principal.

About 2/20/15, Respondent returned \$33,641 to the Principal's account, so her net compensation and reimbursements was \$80,037.98, itemized at Exhibit G.

Sale of car: The Principal sold his 2003 Honda Accord Coupe "as is" to Respondent's husband for \$4,000 on 11/9/13, \$1,000 down and \$100/month for 36 months. The car had body damage.

Cashier's checks: After learning that Petitioner DeeAnn Summers was visiting the Principal at Orchard Park with a notary public on 1/3/15 and on the advice of the Principal's attorney Philip Flanagan, who was concerned that Ms. Summers was attempting to take control of the Principal's accounts, Respondent purchased cashier's checks to substantially deplete accounts #3996, #3941, and #4334. The checks were deposited three days later in the same accounts from which they were purchased. Two days later, these accounts were substantially depleted by transfers assisted by Petitioner John Doyle to account #9761.

Request for Respondent's Attorneys' Fees: Respondent has retained Baker Manock & Jensen to assist her in the preparation of this account and report. She is entitled to reimbursement of her attorneys' fees under Probate Code §4204.

SEE ADDITIONAL PAGES

Respondent requests this Court to order that:

1. The account and report of Respondent as attorney-in-fact be settled, allowed, and approved as filed;
2. All acts and proceedings of Respondent as attorney-in-fact be confirmed and approved;
3. The conservator of the estate pay Baker Manock & Jensen PC attorneys' fees for assisting Respondent in the preparation and presentation of this account and report, in amount to be set by this Court upon proof; and
4. For further orders as the Court deems necessary.

Declaration of Jeffrey A. Jaech in Support of Attorneys' Fees filed 3/4/16 requests fees of \$18,363.00 for 33.6 attorney hours @ \$395-415/hr and 30.3 paralegal hours @ \$150/hr, as itemized at Exhibit A, and costs of \$675.25, consisting of \$435.00 filing fee and \$675.25 in copies. Declaration states Respondent emailed and faxed all statements and documentation, and attorneys had to print documents to review for accounting.

Examiner's Note: Pursuant to Local Rule 7.17, the Court considers photocopy expenses to be a cost of doing business and not reimbursable.

Supplement to Account and Report of Attorney-In-Fact filed 3/4/16 provides additional detail about various accounts mentioned in the accounting, and describes additional payments made to Jeff Fishinghawk and Respondent.

Note: Objection was filed 3/22/16 by DeeAnn Doyle Summers and John Doyle. See additional pages.

Note: Declaration of Christina Fishinghawk Substantiating her Fees and Expenses Servicing her Father as his Attorney-In-Fact was filed 4/20/16, along with a Response to the Objection and Memorandum of Points and Authorities. See additional pages.

SEE ADDITIONAL PAGES

Objection filed 3/22/16 by DeeAnn Doyle Summers and John Doyle includes objections to:

1. Scope of account and report: Ms. Fishinghawk agreed to account and report all of her activities as agent and attorney-in-fact for her father, and specifically volunteered to provide an account commencing 1/1/09, thus admitting she was acting as his agent as early as then, even though the DPOA was not executed until 11/29/12. Objectors therefore request that she provide a full and complete account and report of her activities as her father's agent dating back to 1/1/09. (Emphasis in original.)
2. Sale of vehicle to Jeff Fishinghawk: The account reports that Mr. Doyle sold his vehicle to Jeff Fishinghawk on 11/9/13 for \$4,000, \$1,000 down and the balance in \$100 monthly payments for 36 months. However, the accounting does not reflect the down payment and shows two separate \$100 monthly payments on 9/6/13, two months before the purported sale. Further, no payments were collected between April 2014 and May 2015. Objectors state Ms. Fishinghawk should be surcharged for failing to collect the down payment and monthly payments, a total of \$2,400.
3. Book sale proceeds: The account includes two entries for "cash" for "book sale proceeds of \$1,215 each on 4/18/14. Objectors believe these are duplicate entries and the account should be amended to correct the error.
4. Interest income receipts: Schedule B Receipts includes two entries from "Bank of America" for "interest #4334" of \$4.66 each on 1/8/15. Objectors believe these are duplicate entries and the account should be amended to correct the error.
5. Pacific Life Income: Schedule B Receipts shows income from Pacific Life in the amount of \$25,231.22 on 12/16/14, but no explanation of the receipt is provided. Ms. Fishinghawk should be ordered to explain the nature of this receipt.
6. Transfer from Schwab SEP IRA Account: Receipt on 8/13/15 from an IRA in the amount of \$62,384.68 without explanation, e.g., whether this was a required distribution. Ms. Fishinghawk should be ordered to explain the nature and reason for the withdrawal from the IRA.
7. Car Repair on 10/8/14 for \$1,200. Mr. Doyle did not own a car, having purportedly sold his vehicle to Ms. Fishinghawk's husband in 2013. Objectors believe this disbursement was inappropriate and Ms. Fishinghawk should be surcharged this amount.
8. AT&T: Ms. Fishinghawk disbursed the sum of \$76.76 on 1/5/15 for "telephone services for principal. This appears to be the only entry of its type. Objectors believe this payment was not for Mr. Doyle and that Ms. Fishinghawk should be charged this amount.

SEE ADDITIONAL PAGES

Page 6 – Objection (Cont'd)

9. Disbursement of \$362,283.37 to #6146: No explanation of this account is provided nor is basis for the transfers explained. Objectors request the Court order Ms. Fishinghawk to identify Account #6146 and explain the nature of the transfers.
10. Disbursements/Transfers from #3941: Ms. Fishinghawk reports two \$25,000 disbursements on 7/22/13 from #3941 characterized as transfers between accounts. She reports a transfer of \$25,000 from #3941 to #4334 and another to #5775, described as a "trust account." However, Schedule B Receipts does not reflect either of these transfers. It does show a \$25,000 transfer on 7/22/13, but it is a transfer from #5779 to #4334. There is no receipt showing transfer from #3941 to #4334. Objectors request the Court order Ms. Fishinghawk to amend the account to explain what happened to the two \$25,000 disbursements from #3941, or surcharge of \$25,000.
11. Entry to Balance: Objectors believe the accounting does not balance, hence an "entry to balance" of \$1,070.66. There being no explanation for the missing amount, Objectors request surcharge.
12. Transfers from Wells Fargo accounts: No explanation of the Wells Fargo accounts is provided. Objectors request Ms. Fishinghawk amend to include all Wells Fargo accounts she had access to between 1/1/09 and 12/10/15.
13. Payments to Jeff Fishinghawk: In her supplement, Ms. Fishinghawk states her husband received compensation for "odd jobs" and received \$2,000 to help prepare the residence for sale. None of these disbursements are reflected in the accounting. Objectors request the Court order Ms. Fishinghawk to amend the accounting to include all payments to Jeff Fishinghawk for services he allegedly provided to Mr. Doyle.
14. Schwab Accounts: Also in her supplement, Ms. Fishinghawk admits that she was a cosigner on two Schwab accounts belonging to the trust, and that funds in the accounts were transferred to "Schwab account #9191" and the securities were transferred to "another Schwab account" that she does not identify but thinks may have been another trust account. She states she believes account #9191 belongs to Mr. Doyle's brother Richard Doyle. These explanations are vague and inadequate.
15. Disbursement to Jarco Trucks: Objectors request the Court order Ms. Fishinghawk to provide additional information regarding the disbursement she facilitated on 10/26/11 for \$143,156.64 to Jarco Trucks.
16. Further, Ms. Fishinghawk states the \$143,156.64 disbursement came from Wells Fargo Account #2148, which was closed on 2/17/12, balance transferred to WF #7666, but Ms. Fishinghawk does not identify the owner of #7666 nor the amount transferred thereto.

SEE ADDITIONAL PAGES

Page 7 – Objection (Cont'd)

17. Compensation paid to Ms. Fishinghawk: Objectors object to compensation of \$113,678.98 for purported caregiver services, reimbursement of expenses and mileage, without description of hours, services, expenses, mileage log, to substantiate. Objectors object to her reliance on the "personal care contract," as Objectors believe that Mr. Doyle was suffering from Alzheimer's disease and was unduly influenced by Ms. Fishinghawk to sign the agreement and it is therefore invalid.
18. Attorney fees: Objectors object to payment of Ms. Fishinghawk's attorney's fees and costs from Mr. Doyle's trust or conservatorship estate. §4204 provides that an attorney in fact is entitled to reimbursement for reasonable expenses incurred as a result of acting as such, but Ms. Fishinghawk has not established a) that she has paid Baker Manock & Jensen any fees or costs and is entitled to reimbursement, or 2) that she in fact acted for the benefit of the principal. On the contrary, she paid herself over \$113,000 for services and expenses for which no support is provided, facilitated a payment of \$143,156.64 to purchase a truck for an unidentified person, and the account shows transfers of substantial sums and securities to additional unknown or unidentified accounts.

Objectors believe that upon gaining access to Mr. Doyle's individual and trust accounts, she paid herself substantial sums, gave his car to her husband, who did not make consistent payments, disbursed over \$143,000 to purchase a truck for an unidentified individual, and transferred other sums. Objectors believe the Court should sustain the objections and order Ms. Fishinghawk to amend it, surcharge her for any and all disbursements that she cannot establish were for the benefit of her father, in an amount according to proof.

Objectors request the Court issue an order as follows:

1. Denying approval of the account, report, and supplement;
2. Denying approval of Ms. Fishinghawk's acts and proceedings as attorney-in-fact;
3. Requiring Ms. Fishinghawk to submit an amended account addressing each objection;
4. Requiring Ms. Fishinghawk to amend to include all bank accounts on which she was a co-owner or co-signor with her father, including all accounts identified in the Supplement.
5. Denying Ms. Fishinghawk's request for payment of attorney's fees and costs from the trust or conservatorship estate; and
6. Granting any and all relief the Court deems just and proper.

See also further filed documents:

- Declaration of Christina Fishinghawk Substantiating her Fees and Expenses Servicing her Father as his Attorney-In-Fact filed 4/20/16
- Response to Objection filed 4/20/16
- Respondent's Memorandum of Points and Authorities in Support of Respondent's Motion in Opposition of Petitioners' Request for Attorney's Fees and Costs .
- Reply to Response to Objection was filed 5/3/16 by Deeann Doyle Summers and John Doyle was filed 5/3/16.
- Joinder of Mario Austin, Successor Trustee, in Objection to Account was filed 5/4/16.

Attorney

Flanigan, Philip M. (for Petitioners Thomas Borchardt and Richard Doyle)

Petition to Approve First & Final Accounting

		THOMAS BORCHARDT and RICHARD DOYLE , Attorneys in Fact, are Petitioners.	NEEDS/PROBLEMS/COMMENTS: 1. Notice of Hearing was served without a copy of the petition. Pursuant to Probate Code §4544, Notice of Hearing shall be served together with a copy of the petition on interested parties. Need further notice. 2. Pursuant to Probate Code §1064, the petition for approval of an account shall contain descriptions of transactions, unusual items, familial relationships, etc., as necessary. See §1064 for specifics. This petition only references the schedules and requests approval. The Court may require amended petition reflecting further explanation for the transactions during the account period. 3. The Court may require clarification regarding the various cash deposits and deposits from unknown sources, as well as cash withdrawals by various individuals reflected on the Disbursements Schedule. 4. Transfers between accounts should not be included as receipts. 5. Need proposed order. Local Rule 7.1.1.F.
		Account period: 5/14/14 – 9/1/15 Accounting: \$1,696,050.65 Beginning POH: \$ 483,354.46 (cash) Ending POH: \$ 498.74 (cash)	
	Aff.Sub.Wit.		Petitioners state they have performed all required duties, including the care and custody of the assets composing the corpus of A. James Doyle, Jr., accounts and preparation of this accounting. Petitioners request an Order: 1. Finding that all facts stated in the petition are true and that all notices required by law have been duly given; 2. This account and report be settled, allowed and approved, and all acts and transactions of Attorneys in Fact set forth in it, or relating to the matters set forth in it be ratified, confirmed and approved; 3. Such other and further relief be made as this Court may deem proper under the circumstances; and 4. For such other relief as the Court may deem just and proper.
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w/o	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	x	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
SEE ADDITIONAL PAGES			

Affidavits of Thomas Borchardt and Richard Doyle in Support of Accounting filed 4/27/16 state per the Court's order, he and Richard Doyle are submitting an accounting for their activities as agents under A. James Doyle, Jr.'s Durable Power of Attorney covering the period of 5/14/14 through 9/1/15, at which time the Public Administrator's offices assumed the duties as trustee.

The DPOA was only used by Petitioners to:

- 1) open and inventory Mr. Doyle's safe deposit box at Bank of America;
- 2) close Mr. Doyle's account at Bank of America (xx3624) and transfer funds to a trust account (xx6146); and
- 3) deposit a check received from John Doyle from Wells Fargo (xx9791) and deposit funds into the Charles Schwab account (xx9191).

Mr. Borchardt states he also deposited two checks from Pacific Propane into certain accounts. While there was other activity on the accounts, all such activity was a result of conduct of someone other than Mr. Borchardt and/or Mr. Doyle.

Petitioners state other than as noted above, they performed absolutely no activities utilizing the DPOA.

**11A The A. James Doyle, Jr., Trust Dated April 19, 2004, Case No. 15CEPR01158
as amended and restated on May 14, 2014**

Attorney Flanigan, Philip M. (for Trustees Thomas Borchardt and Richard Doyle)
Attorney Boyett, Deborah K. (for Marion Austin – Successor Trustee of Trust – Objector)

Affidavits of Thomas Borchardt and Richard Doyle in Support of Accounting

		<p>THOMAS BORTCHARDT and RICHARD DOYLE, Trustees, are Petitioners and submit this accounting for their activities as Trustees of the James Doyle Living Trust (<i>sic</i>) and as agents under A. James Doyle's Durable Power of Attorney.</p> <p>Account period: 5/14/14 – 9/1/15 Accounting: \$1,457,887.90 Beginning POH: \$ 890,907.29 Ending POH: \$1,264,846.97</p> <p>Petitioners state under the terms of the trust, they became trustees effective 5/14/14. As such, the accounting covers the period 5/14/14 through 9/1/15, at which time the Public Administrator's office (<i>sic</i>) assumed the duties as trustee.</p> <p>As for the accounting as agent under the Durable Power of Attorney, this was used only to: 1) open and inventory Mr. Doyle's safe deposit box at Bank of America xx3624; 2) close Mr. Doyle's Bank of America account and transfer funds to an account at Bank of America in the name of the trust xx6416; and to deposit a check received from John Doyle from Wells Fargo xx9791 and deposit the funds into Charles Schwab xx9191. Those activities are accounted for in the accounting submitted herewith. While there may have been other activity on the accounts, all such activity was as a result of the conduct of someone other than Petitioners. Other than as noted above, they performed absolutely no other activities utilizing the Durable Power of Attorney.</p> <p>As for the trust accounting, as of the date Petitioners became co-trustees on 5/14/14, the only assets titled in the name of the trust were two Charles Schwab accounts xx1458 and xx5623, which were then consolidated into one account in the name of the trust, xx9191. On or about 2/5/15, Bank of America xx3624 was closed and the funds transferred into the trust account xx6146, as reflected in the accounting.</p> <p><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 5/5/16</u></p> <p><u>Note re related matters:</u> 15CEPR01070 (Conservatorship) 15CEPR01071 (DPOA) 15CEPR01158 (Trust)</p> <p><u>Note:</u> See page B re Petition for Order Compelling Former Co-Trustee to Account and Report.</p> <p><u>Note:</u> Although this accounting is presented in the form of "Affidavits" by the co-trustees, pursuant to Probate Code §1064(b), the filing of an account shall be deemed to include a petition requesting its approval.</p> <p><u>Note:</u> Objection of Successor Trustee Marion Austin was filed 5/5/16.</p> <p><u>SEE ADDITIONAL PAGES</u></p>
Cont. from 050516			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/O		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order X		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

**11A The A. James Doyle, Jr., Trust Dated April 19, 2004, Case No. 15CEPR01158
as amended and restated on May 14, 2014**

Page 2

Objection of Successor Trustee Marion Austin filed 5/5/16 objects as follows:

1. Reporting period: Trustee Austin objects to an end date of 9/1/15. Ms. Austin's court-ordered appointment was more than 90 days after said end date, leaving a substantial gap for which there is no accounting by trustees Borchardt and Doyle. Trustee Austin requests the Court order the former co-trustees to provide an account for the period 5/14/14 through 12/10/15.
2. Beginning Assets on hand: Trustee Austin requests the Court order clarification and further information as to the source from which the carry value of the non-cash assets on hand at beginning was determined.
3. Schedule A – Receipts, Rent, Other Receipts. See Objection for specific clarification requests.
4. Schedule D – Disbursements, General Administration Expenses. See Objection for specifics. Trustee Austin requests the Court order that each category of disbursement be reported separately and additionally that all distributions be reported as such rather than as disbursements. Additionally, there is no indication for any disbursement entry as to whether payment was made by check or electronic funds transfer.

Objector requests an order of the Court that:

1. The request for approval of the First and Final Account of Thomas Borchardt, CPA, and Richard Doyle, Trustees of the Trust be denied;
2. The First and Final Account of Thomas Borchardt, CPA, and Richard Doyle, Trustees of the Trust be amended to correct the insufficiencies described herein; and
3. For such other and further relief as the Court considers proper.

NEEDS/PROBLEMS/COMMENTS: The following remains noted for reference:

1. Need clarification: Petitioner provides both a carry value and a separate estimated market value for the beginning assets on hand as of 5/14/14; however, since this is the first account, the market value as of the beginning account period date should be the carry value for this and future accounts. See Probate Code §1063(a). Need clarification as to where the carry values originated, and why the market values as of the beginning account period date of 5/14/14 were not used as the carry values.

**11B The A. James Doyle, Jr., Trust Dated 4/19/04, Case No. 15CEPR01158
as amended and restated on 5/14/14**

Attorney Burnside, Leigh W. (for Petitioners DeeAnn Doyle Summers and John Doyle)

Petition for Order Compelling Former Co-Trustees to Account and Report

		<p>DEEANN DOYLE SUMMERS and JOHN DOYLE, adult children of settlor, are Petitioners.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 1/26/16: The Court orders Richard Doyle and Tom Borchardt to provide an accounting and report for the period of 5/14/14 through 9/1/15 in the proper format required under the Probate Code and verified under penalty of perjury, and to have the accounting filed by 4/26/16.</p> <p>Note: On 12/10/15, the Court appointed MARION AUSTIN of Central Valley Fiduciary Services, Inc., as Successor Trustee. Trustee Austin objects to the accounting filed by Mr. Borchardt and Mr. Doyle at Page A.</p>
<p>Cont. from 012616, 050316, 050516</p>		<p>Petitioners state Mr. Doyle's physician, Norman B. Sigel, MD, determined that Mr. Doyle lacked capacity to make decisions regarding his financial affairs since December 2014. See letter attached dated 1/9/15.</p>	<p>On 10/30/15, the Fresno County Public Guardian was appointed as temporary conservator of Mr. Doyle's estate in 15CEPR01070.</p>
<p>Aff.Sub.Wit.</p>			
✓	<p>Verified</p>	<p>Mr. Doyle created a trust in 2004, naming himself as sole acting trustee and DeeAnn Doyle Summers as first successor trustee and THOMAS BORCHARDT, his longtime accountant and trusted advisor, as second successor trustee. He amended the trust in 2006 to remove his daughter, CHRISTINA FISHINGHAWK, as a beneficiary and left the residue to Petitioners.</p>	<p>In April 2012, Mr. Doyle was diagnosed with moderate Alzheimer's disease. His condition gradually worsened and in March 2014 he moved from his home to Orchard Park Senior Living Facility. In November 2014 he was moved to the Memory Care Unit, a locked facility, due to wandering.</p>
	<p>Inventory</p>		
	<p>PTC</p>	<p>Petitioners state that approx. two months after he relocated to Orchard Park, Ms. Fishinghawk took Mr. Doyle to the office of Attorney Philip M. Flanigan to sign new estate planning documents. On 5/14/14, Mr. Doyle signed an amended and restated trust agreement, reinstating Ms. Fishinghawk as a 1/3 beneficiary and naming his brother, RICHARD DOYLE, and THOMAS BORCHARDT, as co-trustees.</p>	<p>Reviewed by: skc</p>
	<p>Not.Cred.</p>		
✓	<p>Notice of Hrg</p>	<p>Updates:</p>	
✓	<p>Aff.Mail W</p>		<p>Recommendation:</p>
	<p>Aff.Pub.</p>	<p>File 11B- Doyle</p>	
	<p>Sp.Ntc.</p>		
	<p>Pers.Serv.</p>		
	<p>Conf. Screen</p>		
	<p>Letters</p>		
	<p>Duties/Supp</p>		
	<p>Objections</p>		
	<p>Video Receipt</p>		
	<p>CI Report</p>		
	<p>9202</p>		
✓	<p>Order</p>		
	<p>Aff. Posting</p>		
	<p>Status Rpt</p>		
	<p>UCCJEA</p>		
	<p>Citation</p>		
	<p>FTB Notice</p>		

SEE ADDITIONAL PAGES

**11B The A. James Doyle, Jr., Trust Dated 4/19/04, Case No. 15CEPR01158
as amended and restated on 5/14/14**

Page 2

Petitioners state Richard Doyle and Mr. Borchardt began administering the trust thereafter and allege that they sold Mr. Doyle's home and disposed of some of his personal property and established accounts at Charles Schwab in their names as co-trustees.

Petitioners came to learn that their sister, Ms. Fishinghawk, had established several bank accounts at Bank of America in her name and Mr. Doyle's name as co-owners, and allege that all funds in the accounts were the property of Mr. Doyle. Petitioners further came to believe that Ms. Fishinghawk had misappropriate funds from the accounts, and shared their concerns with the co-trustees. After expressing their concerns, Petitioners received a copy of IRS Form 1099 reflecting that Ms. Fishinghawk had received \$109,565 from the trust in 2014, although both co-trustees denied making payments to her or knowing that she had exercised authority over the trust and nontrust accounts and paid monies to herself.

Concerned, Petitioners requested that the co-trustees provide a written accounting of the trust on 2/11/15. Neither co-trustee has responded. Throughout 2015, Petitioners continued to express concerns to the co-trustees, to attorney Flanigan, and to Ms. Fishinghawk concerning management of their father's finances. Petitioners were hopeful that the family members could work out a solution among themselves without involving the court.

On or about 9/1/15, both co-trustees resigned. Presently, there is no successor trustee in place to manage assets of the trust and a vacancy exists that must be filled. Ms. Fishinghawk expressed that she would like to serve as successor trustee, but Petitioners disagree that she would be an appropriate choice. Further, since appointment of the Public Guardian as temporary conservator of Mr. Doyle's estate, Petitioners have been informed that there is very little cash held in his name to which the PG has access, and therefore believe the remaining cash assets are held in trust.

Petitioners respectfully request the Court order that former Co-Trustees, Richard Doyle and Thomas Borchardt, shall present an account and report of their administration of the trust commencing 5/14/14 through 9/1/15, the date of their resignation, and shall file same with the court and serve notice of hearing thereon to all interested persons; and any and all other relief the Court deems just and proper.

12 Aubrie Church (GUARD/P)**Case No. 16CEPR00204**Petitioner: Anissa Kay Lotspeich (Pro per – 2nd Cousin)Petitioner: Lori Lotspeich Ingram (Pro per – 2nd Cousin)

Objector: Adam Anaya (Pro per - Father)

Petition for Appointment of Guardian of the Person

Age: 5 years	<u>TEMPORARY EXPIRES 6/8/2016</u>	NEEDS/PROBLEMS/COMMENTS:
	LORI LOTSPEICH INGRAM and ANISSA LOTSPEICH , second cousins, are petitioners.	Minute order dated 4/27/2016 states Adam Anaya (father) represents he has retained Mr. Arnold and paid him fees, but does not have a receipt to show the Court. The Court continued the matter to 6/8/2016 and ordered separate, supervised visitation orders for Adam Anaya (father) and Marci Henson (mother).
Cont. from 042716	Objections of Father Adam Anaya filed 3/4/2016.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	Objections of Adam Anaya (father) filed 3/19/2016.	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	Court Investigator Jennifer Daniel's report filed 4/27/16.	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Declaration of Adam Anaya (father) filed 5/27/2016.	
<input checked="" type="checkbox"/> Aff.Mail w/		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv. w/	See petition for details.	Petitioners: 1. Need proof of service 15 days before the hearing of the <i>Notice of Hearing</i> with a copy of the petition <u>or</u> consent and waiver of notice for: a. Mike Church (maternal grandfather) – <i>unless court dispenses with notice</i>
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input checked="" type="checkbox"/> Objections w/		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		Reviewed by: SEF
<input type="checkbox"/> Status Rpt		Reviewed on: 6/3/2016
<input checked="" type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 12- Church

13 Orië E. Myers aka Orië B. Myers aka Bert Myers (Estate) Case No. 16CEPR00236
Attorney Baldwin, Kenneth A. (for Petitioner Blanche Welliver)

Petition for Probate of Will and for Letters of Administration with Will Annexed with IAEA

DOD: 10/19/15	BLANCHE WELLIVER , Sister, is Petitioner and requests appointment as Administrator with Will Annexed with Full IAEA with bond of \$140,000.00.		NEEDS/PROBLEMS/COMMENTS:
	Both named executors are deceased.		Minute Order 4/13/16: Counsel requests 60 days.
Cont. from 041316	Full IAEA – ok		Update: See Declaration filed 5/26/16 (Page 2).
✓ Aff.Sub.Wit.			
✓ Verified	Will dated 7/1/66 – See Declaration re Signature and Handwriting of Decedent under Probate Code §8221 (no subscribing witness available).		1. The Court may require further diligence re the decedent's children, Dianne Marie Myers and Michael Dean Myers, who are beneficiaries under the will. Note: If granted, the Court will set status hearings as follows: <ul style="list-style-type: none"> • Wednesday, July 20, 2016 for filing of bond. • Wednesday, November 9, 2016 for filing the Inventory and Appraisal • Wednesday, August 9, 2017 for filing the first account or petition for final distribution.
Inventory	Residence: Fresno Publication: Business Journal		
PTC	Estimated value of estate: Real property: \$140,000.00		
Not.Cred.	Probate Referee: Steven Diebert		
✓ Notice of Hrg	Petitioner states she is a 1/3 beneficiary of the estate. While the other two beneficiaries named in the will, who are the children of the decedent, have higher priority than Petitioner, their whereabouts are unknown to Petitioner. The decedent was divorced from his spouse in 1956. His spouse took the children with her and departed from the State of California. It is believed that they resided in the State of Oregon for a time. The decedent had completely lost contact with his children and this condition existed for over 45 years prior to the decedent's death. At the time of his death, the decedent did not know if his children were living or deceased, did not know their whereabouts, and did not have any last known addresses for either his children or his ex-wife among his records. The attorney conducted an online search for the ex-wife and children, but did not produce any definitive leads. Petitioner is informed and believes and thereon alleges that the decedent's children are unaware of his death and she has no way to contact or communicate with them.		
✓ Aff.Mail	w/o		
✓ Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
✓ Letters			Reviewed by: skc Reviewed on: 6/6/16 Updates: Recommendation: File 13- Myers
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Page 2

Declaration of Pete Musto re Location of Decedent's Children filed 5/26/16 states Mr. Musto is the legal assistant for the attorney of Petitioner. According to the petitioner, the decedent had begun to lose regular contact with his children over 45 years ago and has had no contact for about 30 years. The petitioner has recently been able to locate correspondence indicating addresses for the children at that time, which was the 1980s.

Using in-house Westlaw Public Records/People Find database and expanding the search nationwide, Mr. Musto was able to locate possible matches for the decedent's children, Michael Dean Myers and Dianne Marie Myers based on age and full names taken from the decedent's will. The search revealed there are individuals with matching names who are now deceased.

The search for Dianne Marie Myers produced two (2) possible matching records, one of which appears to be a married name, in Fennville, MI or Louisville, TN. See Declaration for details.

The search for Michael Dean Myers produced nine (9) possible matching records in various locations. See Declaration for details.

Mr. Musto caused the Notice of Petition to Administer Estate to be mailed to all possible matches as well as the 1980s addresses found on correspondence on 4/14/16.

To date, no responses or inquiries have been received as a result of any of the mailings. The whereabouts of the decedent's children remain unknown. A few of the mailings have been returned "undeliverable."

DOD: 11/16/2013		VALERIE LYNN TAYLOR , sister is petitioner and requests appointment as Administrator without bond. Sole heir waives bond. Full IAEA – o.k. Decedent died intestate Residence: Sanger Publication: The Sanger Herald <u>Estimated value of the Estate:</u> Personal property - \$417,000.00 Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> If the petition is granted status hearings will be set as follows: • Wednesday, 11/09/2016 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Wednesday, 08/09/2017 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
Cont. from 050416				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w/
<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: LV Reviewed on: 06/03/2016 Updates: Recommendation: Submitted File 14- Taylor	

Petition for Appointment of Probate Conservator of the Person

See petition for details.			NEEDS/PROBLEMS/COMMENTS:
			Minute Order 5/4/16: Examiner notes provided in open court. The Court will allow Petitioner to get a new capacity declaration form, complete the header information, and then have the doctor initial item 7b on Page 3 rather than complete a whole new form.
Cont. from 050416			Court Investigator advised rights on 4/11/16
	Aff.Sub.Wit.		
✓	Verified		Voting rights affected – need minute order.
	Inventory		
	PTC		Note: A revised capacity declaration was filed in support of the petition. The following issue remains noted:
	Not.Cred.		
✓	Notice of Hrg		1. Need video receipt per Local Rule 7.15.8.A.
✓	Aff.Mail	W	
	Aff.Pub.		Reviewed by: skc
	Sp.Ntc.		
✓	Pers.Serv.	W	Reviewed on: 6/6/16
✓	Conf. Screen		
✓	Letters		Updates:
✓	Duties/Supp		
	Objections		Recommendation:
	Video Receipt	X	
✓	CI Report		File 15- Flores
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		

16 Reann Maldonado (CONS/P)

Petitioner: Christina Apolonia Maldonado (pro per)

Petitioner: James Edward Alvarado (pro per)

Case No. 16CEPR00349**Petition for Appointment of Probate Conservator**

			Temporary Expires 6/8/16	NEEDS/PROBLEMS/COMMENTS:
			CHRISTINA MALDONADO , mother and JAMES ALVARADO , cousin, are petitioners.	Continued from 5/18/16. Minute order states The court reviews a letter from the doctor regarding the lack of date on the capacity declaration, however the letter still does not indicate the date. The Court grants the petition contingent on filing of the doctor's letter that includes a date. As of 6/3/16 a letter from the doctor has not been received.
Cont. from 050416, 051816				
	Aff.Sub.Wit.		Please see petition for details.	Court Investigator Reported filed on 4/26/16 Court Investigator Advised Rights on 4/13/16. Voting Rights affected need Minute Order. 1. Dr. Neepa Ved's signature on the Capacity Declaration is not dated.
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W/		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
✓	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
✓	Citation			
	FTB Notice			
				Reviewed by: KT
				Reviewed on: 6/3/16
				Updates:
				Recommendation:
				File 16- Maldonado

Petitioner: Sally L. Cruz (Pro per – Maternal grandmother)

Petition for Appointment of Guardian of the Person

		<u>TEMPORARY DENIED 4/21/2016</u>	NEEDS/PROBLEMS/COMMENTS:
		SALLY L. CRUZ , maternal grandmother, is petitioner.	1. Need <i>Confidential Guardian Screening</i> form (Judicial Council form GC-212).
		Court Investigator report filed 5/19/2016.	2. Need <i>Probate Guardianship Questionnaire</i> to be completed by Petitioner and submitted to the Court.
Cont. from			3. Need <i>Notice of Hearing</i> .
<input type="checkbox"/>	Aff.Sub.Wit.		4. Item 10b of petition requests to be excused from giving notice to parents of minor. If court does not dispense with notice, need proof of personal service 15 days prior to the hearing of the <i>Notice of Hearing</i> with copy of petition <u>or</u> consents and waivers of notice <u>or</u> declarations of due diligence for:
<input checked="" type="checkbox"/>	Verified		a. Michael Isaac Pena Sr. (father)
<input type="checkbox"/>	Inventory		b. Maricella Pena (mother)
<input type="checkbox"/>	PTC	See petition for details.	5. Need proof of service 15 days prior to the hearing of the <i>Notice of Hearing</i> with copy of petition <u>or</u> consents and waivers of notice <u>or</u> declarations of due diligence for:
<input type="checkbox"/>	Not.Cred.		a. Imelda Pena (paternal grandmother)
<input type="checkbox"/>	Notice of Hrg	X	b. John Diaz, Jr. (maternal grandfather)
<input type="checkbox"/>	Aff.Mail	X	c. Isaiah Benito Pena (sibling) – if 12 years or older
<input type="checkbox"/>	Aff.Pub.		d. Jordyn Reily Pena (sibling) – if 12 years or older
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	X	
<input type="checkbox"/>	Conf. Screen	X	
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		Reviewed by: SEF
<input type="checkbox"/>	Status Rpt		Reviewed on: 6/3/2016
<input checked="" type="checkbox"/>	UCCJEA		Updates:
<input type="checkbox"/>	Citation		Recommendation:
<input type="checkbox"/>	FTB Notice		File 17- Pena

Petitioner Daniels, Melissa (Pro Per – Maternal Great-Aunt)

Petition for Appointment of Guardian of the Person

Age: 2 months		<p align="center"><u>TEMPORARY EXPIRES 06/08/2016</u></p> <p>MELISSA DANIELS, Maternal Great-Aunt, is Petitioner.</p> <p align="center"><u>Please see petition for details</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> • Jose Pablo Gomez, Sr. (Paternal Grandfather) • Alberta Lopez (Paternal Grandmother) • Santiago Lima (Maternal Grandfather) 	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			x
	Aff.Mail			x
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			n/a
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: LV
Reviewed on: 06/06/2016
Updates:
Recommendation:
File 18- Estrada

DOD: 11/02/2014		LAURENA GRIMMETT , wife is petitioner and requests appointment as Administrator without bond.	NEEDS/PROBLEMS/COMMENTS:
		All heirs waive bond	Note: If the petition is granted status hearings will be set as follows:
Cont. from			
	Aff.Sub.Wit.	Full IAEA – o.k.	
✓	Verified	Decedent died intestate	• Wednesday, 11/09/2016 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u>
	Inventory	Residence: Coalinga Publication: The Business Journal	• Wednesday, 08/09/2017 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.
	PTC		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
	Not.Cred.		
✓	Notice of Hrg	Estimated value of the Estate:	
✓	Aff.Mail	Personal property - \$14,000.00	
✓	Aff.Pub.	Real property - \$138,000.00	
	Sp.Ntc.	Less encumbrances - \$81,000.00	
	Pers.Serv.	Total - \$71,000.00	
	Conf. Screen	Probate Referee: Rick Smith	
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: LV
			Reviewed on: 06/06/2016
			Updates:
			Recommendation: Submitted
			File 19- Grimmatt

DOD: 03/08/2016	DARYL S. HILDRETH, and DARLA K. AUSTIN, children, are petitioners.	NEEDS/PROBLEMS/COMMENTS:
	40 days since DOD	
Cont. from	No other proceedings	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	I&A - \$95,000.00	
<input checked="" type="checkbox"/> Inventory	Decedent died intestate	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Petitioners request Court	
<input checked="" type="checkbox"/> Notice of Hrg	determination that decedent's 100% interest in real property located at 840 E. Jefferson, Reedley, Ca. pass 50% to Daryl S. Hildreth, and 50% pass to Darla K. Austin pursuant to intestate succession.	
<input checked="" type="checkbox"/> Aff.Mail	w/	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: LV
		Reviewed on: 06/06/2016
		Updates:
		Recommendation: Submitted
		File 20- Hildreth

Petition to Determine Succession to Real Property

DOD: 11/15/2009	ROY CARDENAS , son, is petitioner	NEEDS/PROBLEMS/COMMENTS: 1. Four of the decedent's children have disclaimed their interest in the estate. Probate Code §275 et seq states if a beneficiary disclaims their interest in an estate, the disclaimer acts as if the disclaiming party predeceased the decedent. Therefore, the issue of Juan G. Cardenas, Aurelia M. Langford, Juan Manuel Cardoza and Jose Luis Cardoza (if any) are successors in interest to the property and are entitled to an intestate share of this estate. Need the names, relationships, ages and addresses of any issue of: a. Juan G. Cardenas b. Aurelia M. Langford c. Juan Manuel Cardoza d. Jose Luis Cardoza
	40 days since DOD	
	No other proceedings	
Cont. from	I&A - \$85,000.00	
<input type="checkbox"/> Aff.Sub.Wit.	Decedent died intestate	
<input checked="" type="checkbox"/> Verified	Petitioner requests Court	
<input checked="" type="checkbox"/> Inventory	determination that decedent's	
<input checked="" type="checkbox"/> PTC	100% interest in real property	
<input type="checkbox"/> Not.Cred.	located at 276 E. Hawthorne	
<input checked="" type="checkbox"/> Notice of Hrg	Avenue, Coalinga CA pass to him	
<input checked="" type="checkbox"/> Aff.Mail	pursuant to disclaimers of interest	
<input type="checkbox"/> Aff.Pub.	and intestate succession.	
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: SEF
		Reviewed on: 6/6/2016
		Updates:
		Recommendation:
		File 21- Cardenas

Petitioner

Ragsdale, Alyssabeth Rose (Pro Per – Maternal Half-Sister – Petitioner)

Objector

Ibarra (Saldivar), Rosenda Lee (Pro Per – Mother)

Petition for Appointment of Temporary Guardian of the Person

		See petition for details.	NEEDS/PROBLEMS/COMMENTS: Minute Order 6/2/16: The Court orders that the minor be brought to Court on 6/8/16. Parties are to notify Deputy Dau upon arrival and the minor will be kept in the childcare center or another safe place until the Court is ready to speak with her. Parties are also to bring any documentation to show proof of residence of Ms. Ibarra (Saldivar) and the minor, since the parties dispute this issue. Ms. Ragsdale is allowed to bring her building manager to address the issue as well. Note: On 6/3/16, a declaration was filed by Rosenda Ibarra (Mother) which contained a letter from Richard Ibarra (Father) objecting to guardianship. On 6/6/16, a declaration was filed by Ms. Ibarra with an attached typed (unsigned) letter from her sister-in-law. See additional pages. <u>The following issues remain noted:</u> 1. Need Notice of Hearing. 2. Need proof of personal service of Notice of Hearing with a copy of the temp petition at least five Court days prior to the hearing per Probate Code §2250(e) <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Richard Ibarra (Father) - Rosenda Saldivar (Mother)	
Cont. from 060216				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			X
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 6/6/16	
			Updates:	
			Recommendation:	
			File 22- Ibarra	